

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

EASTERN District of Worcester

Massachusetts Division

Case No. _____

(to be filled in by the Clerk's Office)

MATTHEW P. Tottenham (Pro-se)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

See Attached.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

FILED IN CLERK'S OFFICE

OCT 20 '21 PM 2:10 USDC MA

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

UNITED STATES DISTRICT COURT
FOR THE
District of Massachusetts

MATTHEW P. TOTTENHAM PRO-SE
(Plaintiff)

v.

- 1) • WELLPATH MEDICAL PROVIDERS FOR D.O.C. (Contractual Employees).
- 2) • Department of CORRECTIONS (AKA "D.O.C." Herein forth).
- 3) • Deputy Commissioner of Medical/Mental health FOR D.O.C. -
Mitzzi Peterson.
- 4) • Dean Grey ("S.B.C." Super Intendant)
- 5) • Steven Kenneway (previous Superintendent of S.B.C.C.)
- 6) • Linda Foray (previous Medical Grievance Coordinator)
- 7) • Lisa Black Sholudko (current WellPath Appeal Coordinator)
- 8) • David Mburu (S.B.C.C. previous Health Services Administrator AKA "H.S.A.")
- 9) • Ashley Landry (S.B.C.C. H.S.A.)
- 10) • Kelly Ryder (previous Director of Nursing)
- 11) • Nikki Caldwell (previous H.S.A.)

VERIFIED COMPLAINT FOR A CIVIL CASE

I. The Parties to this Complaint

A. The Plaintiff(s)

NAME: MATTHEW Paul TOTTENHAM
Street address: 1 Harvard R.d./ Po Box 8000
City/County : Shirley / Worcester
State & Zip code: MA. 01464
Telephone/email: N/A / email needs to be requested by outside source through
"CorrLinks", then emails are 25¢ each way.

B. Defendant(s)

Defendant No. 1

NAME: WELLPATH MEDICAL PROVIDERS

Job/TITLE: They're the Contractual Medical/Mental health "Providers"

Street address: 16 Chestnut St. Suite 250

City/county: Foxborough /

State and Zip: MA. 02035

Phone/email - N/A

Defendant No. 2

NAME: Department of Corrections ("D.O.C."; Herein forth to be known as)
Job Title: To Rehabilitate, house, feed, and therefore "provide" for MA. Inmates.
Street address: 50 Maple Street, Suit 3
City/County: Milford / Suffolk County
State & Zip: MA. 01757
Phone & email - N/A

Defendant No. 3

NAME: Mitzi Peterson
Job Title: Deputy Commissioner of Medical / Mental health
Street address: 50 Maple Street
City/County: Milford / Suffolk County
State and Zip: MA. 01757
Phone & email - N/A

Defendant No. 4.

NAME: Dean Grey
Job Title: Superintendent of Souza Baranowski Correctional Center (Max State Prison)
Street address: P.O. Box 8000
City/County: Shirley / Worcester
State and Zip: MA. 01464
Phone & email - N/A

Defendant No. 5.

NAME: Steven Kennaway
Job Title: Prior Superintendent (of "S.B.C.C.")
Street address: Unknown
City/County: Unknown
State & Zip: Unknown.
Phone & email - N/A
(Believed to still work as Superintendent of a D.O.C. facility just
Not S.B.C.C.)

Defendant No. 6

NAME: Lynda or Linda Farag
Job Title: (prior Medical Grievance Coordinator)
Street Address: Unknown
City/County: Unknown
State & Zip: Unknown
Phone & email - N/A Unknown

Defendant No. 8

NAME: DAVID MBURU

Job Title: ¹Health Services Administrator (AKA H.S.A. of S.B.C.C.)

Street address: unknown

City/county: unknown

State & zip: unknown

Phone & email - N/A

*1. Previous H.S.A. He has left this employment.)

Defendant No. 9

NAME: Ashley Landry

Job title: Health Serv. Admin. (Current H.S.A. of S.B.C.C.)

Street address: P.O. Box 8000

City/county: Shirley / Worcester

State & zip: MA. 01464

Phone & email - N/A

Defendant No. 10

NAME: Kelly Ryder

Job title: unknown

Street address: unknown

City/County: unknown

State & zip: unknown

Phone & email - N/A

Defendant No. 11

NAME: Nikki Caldwell

Job Title: unknown now (PREVIOUS H.S.A. for S.B.C.C.) (left employ)

Street Address: unknown

City/County: ~~unknown~~ unknown

State & zip: unknown

Phone & email - N/A

SEE ATTACHED FOR THE APPROPRIATE
Documented and well pleaded facts and Basis for
Jurisdiction, (Next Pg - #14)

II. Basis For Jurisdiction.

☒ Federal question. NOT A Diversity of citizenship.

A. List the specific Federal statutes, Federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

1. 42 U.S.C. § 1983 The Court has Jurisdiction over this case under § 1983 for Violation of Plaintiff's 8th Amendment Rights to be free from cruel and unusual punishment and the infliction of wanton and unnecessary pain over the course of Five Years. These claims are ongoing and have not been resolved. Some of the defendant's acts or omissions have been from more than 3 years ago, but they set in place the grounds of which the recent plaintiffs have been standing on to abuse the discretion of their offices, THOUGH ALL DEFENDANTS HAVE MADE A VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS UNDER 42 U.S.C. § 1983, 8th Amendment and 14th Amendment's in the last 3 years, it's only that some have continued to be violated through [5] years of torture, torment and games staff manipulation of the rules & regulations of the 103 Doc 630.00 CMR's which are upheld by the law and govern the States prisons.

Also under pendant jurisdiction of M.G.L.C. Article 26 for Cruel OR unusual punishment(s) under state law while acting under color of States official actions.

And finally violation of the States Regulations of the Dep't of Corrections, Commonwealth of Massachusetts Regulations (C.M.R.'s) Health Services Division 103 DOC 630 §§ 630.01 - 630.21 Attachments A-L.

III. Statement of a Claim(s)

1.) March 15, 2016 Plaintiff underwent surgery for his right Great Toe. This got severely infected and was botched resulting in a Second Surgery on May 19, 2016 and several months of first "P.I.C.C. line" anti-biotic treatment, then eight months of healing which were agonizing. At the end of which Plaintiff was unable to use or wear prison issue or commissary footwear all of which are basic footwear with little technology for comfort and inadequate for seriously injured feet.

a.) Plaintiff was given orders from a podiatrist Dr. Charles King who was a visiting specialist who the Health Services Administrator's -

(pg 4)

or "H.S.A." (Hereinforth to be known as), Job to set up schedule these visits, and there Job to Allow or deny the recommendations/orders, which were the Plaintiff required Quality Athletic Footwear with Air or gel technology.

3.) After fighting back and forth, with the then H.S.A. ¹ Julie Ireland, for NINE LONG MONTHS the plaintiff was finally allowed to pay for himself the shoes recommended by the Specialist, AirMax with air Support 360° around the bottom offering relief while walking and playing Sports.

4.) After acquiring these shoes on or about July, of 2017, these shoes the plaintiff realized he needed a second pair to change into after exercising which every inmate per policy in S.B.C. was allowed plaintiff requested, was denied, then he grieved and was denied and appealed being denied several times over.

5.) Finally on December, 17 2017, six months later, a Search team was dispatched to Search Plaintiff's cell. After putting plaintiff in the "hole", for what - turned out to be Baseless accusations which the officers also KNEW to be false, the plaintiff's shoes were "gone missing".

6.) On this same day Medical said they would "facilitate [plaintiff's] acquiring a new pair of shoes once the old ones "fell into disrepair". After his shoes went missing the plaintiff then called on Medical to help him get the same pair back on a new pair as they promised, ON PAPER to get or "Facilitate" him getting.

7.) Medical then said they "changed the policy", and Nikki Caldwell despite the recommendations being renewed and renewed and renewed repeatedly refused to allow throughout 2018 into 2019. The plaintiff grieved these refusals, and appealed them, to Linda Farag over and over again... Dr. King specifying the absolute need for these shoes and the pain the plaintiff's serious condition was in.

8.) After Nikki Caldwell turned over her position to David Mburu David Mburu took it to another level, utilizing and using fake appointments, fake, paperwork saying plaintiff was "going to the Brace Clinic to get his custom shoes", but this never happened.

(P. 5)
1. Named as a defendant in a different State Court claim for similar actions still pending, But none depending on these allegations which are Newer, & separate.

9.) After David Mburu continued to falsify records stating the plaintiff "was going to the Brace Clinic to pick up [his] custom shoes", and many other, false dates of visits which never occurred which discovery w. il show records of, He started a new one. Mburu "approved [Plaintiff] for the shoes recommended by Dr. King" (which they were not) the shoes he was speaking of were called "Proper" shoes used typically for diabetics. Plaintiff Tottenham not wanting to refuse any care and plainly, desperate for comfort from the severe pain in both his feet, the fibromatoses in his arches and the hallux-rigidus, and Hallux valgus w/ degenerative joint disease, Mburu sent nurses with proper shoes in box's, new... size 12, 9 sizes too large for the plaintiff, & Plaintiff told the nurses again and again his size, 10 1/2... They continued bringing size 9, size 11 1/2, size 12 again and again... After realizing that Mburu was documenting each time as a "refusal of treatment", Plaintiff finally accepted out of desperation, a pair of sz 12 Proper shoes...

10. The plaintiff was stuck with these shoes for almost a year until he was sent to old Colony Corr. Ctr. where they gave him the Air Max shoes SBC was denying/refusing to give him, deputy priels and Mburu teaming up to deny plaintiff the white Airmax. Then Plaintiff was moved back up to higher security & S.B. C.C. again under Mburu's care in the summer of 2019.

11.) On Oct 7, 2019 Mburu finally sent plaintiff to "L.S.H." (Lewell Shettuck Hospital, heretofore known as "L.S.H.") for his long awaited Surgical Consult. The Doctor "Patricia Clifford" explained how severe the Plaintiff's injury/Condition in his feet was. In the X-ray was a marked degeneration from the Plaintiff's last pictures, and Dr. Clifford made a dire prognosis, either the plaintiff was able to get a pair of Saucony or Asics footwear with a wide toe box and good technology and see if this could relieve the Plaintiff's pain enough to avoid a life altering surgery called a "fusion" which would take away the young Plaintiff's use of his great toe, by fuzing the bones in the joint together, which would offer relief in the foot pain but result in permanent disuse of the joint thus making exercise difficult and possibly causing further degeneration of the discs in plaintiff's back, his knees, and hip pain... So, Dr. Clifford ordered plaintiff quality athletic footwear to alleviate the symptoms of pain plaintiff experienced daily every step, with his current footwear which, though of high quality were too narrow and which was causing the pain from wearing the shoes and even after, while laying down etc... Then Plaintiff was to follow-up in six weeks, "via Zoom - Medical,"

11.). Not liking this decision by Dr. Clifford Mburu set up yet another specialist visit with Dr. Charles King on November (5) fifth, 2019 who, now said "this X-ray is terrible Matt, I mean, you got another Doctor again saying the same thing, there's too many of us saying the same thing, they can't say No Now, I'm going down right now, and looking at a Catalogue, to order you some Asics gel-nimbus" and "we will follow-up in six weeks see if you still can't deal with the amount of pain you must be in, sorry it took so long but we got this now."

12. To try and make this brief, the plaintiff has now gotten even the white Nike's taken from him by Security Staff, the plaintiff has been grieving his situation, has reached out to outside organizations who have put the Superintendent on notice and requested he follow the Specialists recommendations, the plaintiff has written letters to Steven Kenneway who once said he would rectify this situation changed his mind, and ~~now~~ recinded his promise because the plaintiff "filed a grievance so now [he] is on [his] own to deal with the grievance process"; in his written response to the plaintiff, the plaintiff has had outside organizations to put on Notice the Superintendent Dean Grey who plaintiff also wrote, and Dean Grey told plaintiff verbally, when plaintiff asked him if he is going to just let Medical deny him the Medical care he absolutely needs, and let him sit here in severe pain while Medical writes fake appointments and dialogue? Dean Grey's response was "yup"...

Ashley Landry has canceled the plaintiff's scheduled visits to the Bruce clinic, has ignored several grievances, and Appeals have been denied or ignored by Sholodku as well.

Together the D.O.C. and it's Medical division Mitzipeterson has refused to respond to the please of the plaintiff on so many occasions there's no keeping track now. Ashley Landry Told the plaintiff on Friday (Sept 24 2021) to "write a sick SLP if he has a problem with his treatment plan".

WHEREFOR, PLAINTIFF DEMANDS TRIAL BY JURY

V. Certification, Verification of Complaint and closing.

Under Fed. R. Civ. P. 11, by signing below, I certify to the best of my knowledge, information and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of rule 11.

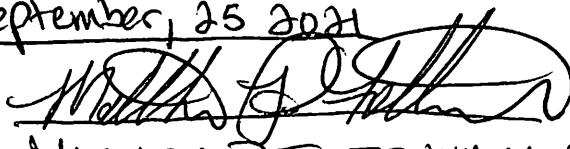
A. For Parties without an Attorney.

I agree to provide the clerk's office with any changes to my address where case-related papers may be served. I understand that my -

Failure to keep a current address on file with the Clerk's office may result in the dismissal of my case.

I, Matthew P. Tottenham, do hereby swear under penalty of perjury that my Complaint and all facts and allegations are true and correct.

Date of Signing: September, 25 2021

Signature of plaintiff: 

Printed name of plaintiff: MATTHEW P. TOTTENHAM pro-se

Plaintiff's Address: PO Box 8000
Shirley, MA
Worcester County

Plaintiff's inmate ID #: W102714 01464

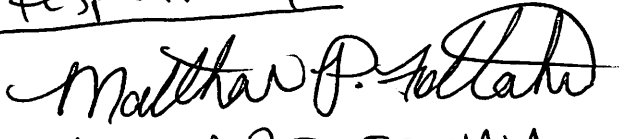
VI. RELIEF

A.) For All Defendants, declare they violated plaintiff's Constitutional Rights.

B.) The Court Grant immediate Temporary Restraining Order Ordering the defendants D.O.C. and Wellpath to allow the Plaintiff to order or to provide the plaintiff with adequate footwear fitting the description of the Specialists Attached AS; Exhibit A. (specialists orders) also x-ray readings.

C.) To Award plaintiff \$500,000 in equitable relief to cover plaintiff's future Medical Expenses and also punitive relief As the Court deems just and equitable.

Respectfully

Signed: 
#W102714 - MATTHEW P. TOTTENHAM
SBCC
PO BOX 8000
Shirley MA. 01464

(Pg 8)